00736-14: Budget 2015 – Outcome of Review of SARP (BUD 13/15)]

To: Minister	**Author:** Sinéad Reynolds
Status: For Review by Secretary General	**Owner:** Sub_FIN Sec Gens Office
Purpose: For Decision	**Reviewers:** Marianne Nolan
Division/Office: Fiscal Division	
Decision By:	

Action Required

Decision Sought on the Outcome of the Review of SARP

Executive Summary

When SARP was introduced, a commitment was made to review the scheme after 3 years. That review has been carried out in consultation with Revenue and included a public consultation process and a series of stakeholder meetings. A report is being finalised (draft attached for information – still subject to final editing) and a number of options are put forward for your consideration.

While the initial take-up of SARP has been slow, it has begun to pick up. Stakeholders we engaged with stressed the importance of the scheme in terms of Ireland's offering for attracting FDI. They are strongly of the view that the scheme should be enhanced to improve its attractiveness. We agree with this view and also consider it to be an important part of Ireland's response to the BEPS project.

Our preference would have been to provide a mandatory requirement in SARP for employment creation, but this has raised potential State Aid issues which could take some time to resolve with the EU Commission.

It is recommended that you extend the scheme for a further 3 years with some enhancements. Your approval is also sought to engage with the EU Commission to ascertain whether the proposal to link the scheme to job creation would be compatible with State Aid guidelines.

While any extension/enhancement of the scheme is likely to raise opposition in some quarters, we believe it can be justified in terms of helping to improve Ireland's overall competitiveness in attracting FDI and supporting job creation.

Comments

There are no Comments.

Detailed Information

Background

1. As you will recall, you introduced the Special Assignee Relief Programme (SARP) in Budget 2012 for a period of three years. The aim of the relief was to reduce the cost to employers of assigning skilled individuals in their companies from abroad to take up positions in the Irish-based operations of their employer. At the time of its introduction, you committed to reviewing the scheme in 2014.

2. FDI has been, and will continue to be, an integral part of Ireland's economic development strategy. SARP was introduced recognising that Ireland needs to be able to compete with other countries in terms of reducing the costs for employers to avoid losing out on potentially significant investment decisions. It continues to be a critical part of Ireland's offering in terms of attracting FDI.

3. SARP is also important in terms of the ongoing OECD BEPS process, and we believe that it will result in opportunities for Ireland as Irish based groups will need to be able to demonstrate significant substance here if they wish to avail of the 12.5% tax rate on a large portion of their worldwide profits. If an Irish group has significant operations overseas it will need to be able to show that the important decisions relating to those operations are made in Ireland and that the risks of those operations are borne by the Irish company. To be able to do this it will need to be able to attract employees with requisite experience and skills. Therefore, an attractive SARP

could be used as part of a suite of measures to encourage companies to locate their substantive operations in Ireland.

Current Scheme

4. SARP provides for an exemption from income tax on 30% of salary between €75,000 and €500,000. There is no exemption from USC and PRSI is payable where the individual is not liable to it in their home country. School fees of up to €5,000 and one trip home per year, where they are paid for by the employer, are not subject to tax.

Costs

5. Based on data from employer returns for 2012, employers have indicated that the amount of income in respect of which tax was not deducted for 2012 was €272,491. Using the marginal rate of tax of 41%, this implies that the cost of the scheme in 2012 was approximately €0.1 million. The first year of the programme was 2012 and the following table illustrates the level of take-up:

Number of employees	12
Number of employers	11
Number of jobs created	5
Number of jobs retained	6

Preliminary statistics for 2013 show the following:

Number of claimants in 2013	31
Number of claimants that also claimed in 2012	7
Number of new claimants in 2013	24

6. Tentative figures show 24 claimants to date in 2014. It is not clear whether these are the same 24 individuals as 2013. While these figures show that take-up of the scheme has not been as high as expected, they are showing some increased levels of take-up. One of the reasons for this

increase could be the requirement for an individual to be tax resident in Ireland and not tax resident elsewhere. This can serve to preclude individuals from claiming SARP in their year of arrival as they could be resident in the State from which they have been assigned.

Review

7. In conjunction with the Revenue Commissioners, officials conducted a review of the scheme in advance of Budget 2015. The review comprised of:

- An analysis of the background and rationale for the programme;
- An analysis of the data available from the Revenue Commissioners including the cost and take-up of the programme;
- Examination of the proposals and comments received from the public consultation which ran from 31 March to 9 May 2014;
- Consideration of discussions held with stakeholders on the programme;
- Examination of similar type programmes in a number of other jurisdictions; and
- Examination of options for SARP after 31 December 2014.

8. A total of 13 submissions containing 28 proposals for amendments to SARP were received from groups including industry representative bodies, Government agencies, companies and accountancy firms. In addition, 10 stakeholder meetings were held to discuss their proposals further. While the proposals varied, the consensus among stakeholders was that it is imperative that a SARP scheme should be retained as part of a package of measures to attract FDI.

9. The main proposals received were:

- To open the scheme to new hires
- To provide an increased level of tax relief
- To remove the requirement not to be tax resident elsewhere
- To include relief from USC and PRSI
- To remove/alter the upper or lower thresholds
- To remove the restriction on overseas duties
- To simplify the application and reporting requirements
- To introduce a skills-based regime similar to the Netherlands
- To extend the relief to individuals from all countries, not just those with whom Ireland has a DTA or TIEA

- To extend the scheme to the self-employed
- To reduce the requirement to have been non-resident for the previous 5 years
- To reduce the qualifying employment abroad criteria from 12 months to 6 months to align with recently published work permits legislation
- To include commission and bonus payments in the calculation of basic salary for the purposes of reaching the minimum threshold of €75,000
- To exclude world-wide income such as capital gains for non-doms
- To provide lump sum payments to cover relocation costs, accommodation, school fees and travel costs tax free

Options

10. The following options have been considered:

1. To allow SARP to run its course until the end of 2014 at which time it would lapse with no replacement
2. To extend the current scheme as is for a further three years
3. To introduce a skills based regime
4. To introduce a corporation tax deduction
5. To introduce an entirely new regime
6. To extend the scheme, subject to some amendments, for a further three years

Option 1 – To allow SARP to run its course until the end of 2014 – no change

11. This would involve doing nothing and letting the current scheme lapse at the end of the year. The consensus among stakeholders is that SARP has not lived up to expectations and is not addressing the need to attract FDI to Ireland and support employment. As the programme is considered by stakeholders to be of limited value in its current form and may largely constitute deadweight, letting it lapse could be defended. Having said this, from what we heard during the public consultation process, doing nothing to attract key employees is very likely to lead to a loss of investment and employment to other jurisdictions.

Option 2 – To extend the current scheme for a further three years

12. Extending the scheme as currently structured would allow more time to compile more hard data on the operation of the scheme and to allow time to evaluate a recent increase in take-up of the programme. However, given the consensus among stakeholders that SARP has not delivered to date to the extent hoped for, this option would be a missed opportunity to design a scheme that has a better chance of delivering investment and employment to Ireland.

Option 3 – To introduce a skills based regime

13. Many stakeholders cited the regime in the Netherlands due to the attractiveness of the scheme and the ease of its administration. The Dutch scheme is known as the "30% rule". This scheme provides an exemption from tax on 30% of salary for up to 10 years for qualifying assignees. In the main, the assignee must have a salary of at least €36,378, however this can be reduced depending on the academic qualifications of the assignee. The take-up of this scheme is extremely high, with 13,581 individuals availing of it in 2012.

14. A worked example of the cost of introducing a similar scheme in Ireland is contained in the review. Using the average industrial wage of €35,874 as a comparison to the Dutch entry level and basing the take-up on population levels, to introduce a similar scheme here could result in a cost to the Exchequer of approximately €140 million over 10 years.

15. The Expert Group on Future Skills Needs publishes regular reports which outline the skills gaps in the workforce. Their most recent report on the labour market in 2013 states that the highest share of mentions of difficult to fill vacancies was for professional posts in IT, engineering, science, health, business and limited openings in construction as well as multilingual sales and multilingual customer care roles.

16. Targeting sectors as identified by the Expert Group on Future Skills Needs without a minimum salary level could lead to thousands of employees being recruited to multinational corporations qualifying for the relief. This would likely lead to job displacement as it would be cheaper for the multinational corporations to hire foreign workers over Irish individuals who have the relevant skills.

17. Introducing a scheme such as this would be difficult to defend given the potential cost to the Exchequer and the potential displacement of Irish resident workers competing for the same jobs. In addition, it would be difficult to defend such favourable tax treatment for a large number of employees without any requirement for the employees or the companies to provide any additional employment or investment.

Option 4 – To introduce a deduction against corporation tax

18. As the scheme is intended to reduce the cost to employers of assigning an individual to Ireland, it is appropriate that consideration be given to providing the relief by way of a

deduction against corporation tax. Using an example of an assignee from the USA on a salary of €225,000, the tax equalisation cost to an employer is approximately €77,344 per annum. To provide a deduction against corporation tax of 12.5% on this amount would result in a reduction in corporation tax of €9,668 (€77,344 x 12.5%), leaving the company with an outstanding equalisation cost of €67,676. It is considered that this would not be a sufficient incentive to persuade a company or an individual to come to Ireland.

Option 5 – To introduce an entirely new regime

19. A number of stakeholders raised the option of introducing a new scheme, one designed to help improve on Ireland's competitiveness, attract further FDI and help employment creation. Consideration was given to a scheme which would be specifically designed to support investment and job creation in the economy.

20. The scheme under consideration would have required companies to create 10 additional jobs for every assignee within 3 years of the assignment. At the end of the 3 years, if the employment had been created, the assignee would have received the benefit of the scheme for a further 2 years. If not, then the relief would have been clawed back from the employer.

21. The assignee would have paid either a flat rate of tax of 30%, or an effective rate of tax of 30% on salary in excess of €75,000. There would have been no upper salary limit. A maximum of 5% of a company workforce could avail of the relief. The scheme would have been managed and overseen by the IDA, while the granting of the relief would have been administered by Revenue. It was felt that this scheme would have provided a real boost to job creation with consequent increased yields to the Exchequer.

22. This option was our preference. Unfortunately, arising from discussions with the Attorney General's office, advice was received that the new proposal has the potential to raise state aid issues. The proposed requirement to include IDA certification of the jobs created after three years and the mandatory nature of the requirement for job creation could result in the scheme being considered State Aid rather than as a taxation measure. As discussions with the EU Commission on State Aid issues can take some time, it is not recommended that you choose this option at this time. However, approval is sought to engage with the EU Commission to ascertain whether this proposal could be made compatible with State Aid Guidelines for possible inclusion in next year's Budget.

Option 6 – To extend the current scheme, subject to some amendments for a further three years

23. Given the on-going BEPS project, we recommend extending the current scheme, but amending it such that it is made more attractive to assignees in order to encourage FDI and subsequent job creation. This will aim at improving Ireland's overall offering in attracting investment to Ireland. The following amendments are recommended:

- The lower threshold of €75,000 will remain but the upper threshold of €500,000 will be removed
- The requirement to be tax resident in Ireland and not resident elsewhere will be removed. The only requirement will be tax residence in Ireland
- The performance of work-related duties outside of the State will be permitted. This will facilitate assignees who are required to carry out some of their duties outside the State on a regular basis
- The requirement to have been employed abroad by the same employer will be reduced from 12 months to 6 months

Rate of Relief

24. SARP currently provides for an exemption from income tax on 30% of salary between €75,000 and €500,000. Three options for an enhanced SARP have been considered as part of the review:

1. The relief remains as is
2. A flat rate of tax of 30% on all income once salary exceeds €75,000
3. An effective rate of tax of 30%

Currently, a single taxpayer entitled to basic tax credits pays the following effective income tax rates at various salary levels:

Salary	€80,000	€100,000	€150,000	€200,000	€300,000	€500,000	€800,000
Effective Rate incl USC	34.41%	37.13%	40.75%	42.57%	44.38%	45.83%	46.64%

Option 1 – The relief remains as is

25. This would result in the assignee paying full tax on their income up to €75,000 and receiving an exemption from income tax on 30% of their income above this level up to the cap of €500,000. USC would be payable as normal. Stakeholders have stated that this level of relief is not attractive enough. For example, an assignee on €200,000 pays an effective rate of tax of 34.88% under current SARP. This is a reduction of 7.69% from what would be payable without SARP.

Salary	€80,000	€100,000	€150,000	€200,000	€300,000	€500,000	€800,000
Effective Rate incl USC	33.64%	34.06%	34.60%	34.88%	35.15%	35.37%	40.11%

Option 2 – A flat rate of tax of 30% on all income once salary exceeds €75,000

26. This is the preferred option of the Department as it is easy to communicate to individuals and companies. It provides an attractive incentive for companies to base their operations here. However, Revenue have indicated that they would not be in favour of setting up a third rate of tax on their systems, particularly when the relief would be availed of by a small number of individuals. In addition, they state that companies would not be willing to make the necessary amendments to their payroll systems. To apply a flat rate of tax of 30% on all income once salary exceeds €75,000 would result in an effective rate of tax of 28.01% for an assignee on €200,000. It is recommended that the rate of relief stays as is (an exemption from income tax on 30% of salary in excess of €75,000) and that discussions continue with Revenue with a view to introducing a more attractive rate of relief if approval is received from the EU Commission for the job creation requirement.

Salary	€80,000	€100,000	€150,000	€200,000	€300,000	€500,000	€800,000
Effective Rate incl USC	25.02%	26.02%	27.35%	28.01%	28.67%	29.20%	29.50%

Option 3 – Target an effective rate of tax of 30%

27. Revenue have advised that one way to achieve close to an effective rate of tax of 30% (including USC) is to provide an exemption from income tax on 50% of salary in excess of

€100,000. The full salary would remain subject to USC. This option would result in individuals paying close to an effective rate of tax of 30% (including USC) once their salary reaches €300,000. However, this option is almost identical to that which was in place prior to the current SARP, and which proved unsuccessful. This is the preferred option of Revenue due to its ease of implementation, but we feel that this would attract significant negative attention as it would be perceived as providing a 50% exemption for highly paid individuals regardless of its intention to impose an effective rate of 30%, particularly when the 30% rate is only reached when a salary of €300,000 is being paid.

Salary	€100,000	€150,000	€200,000	€300,000	€500,000	€800,000
Effective Rate incl USC	37.13%	33.92%	32.32%	30.71%	29.43%	28.70%

28. It is recommended that the rate of relief stays as is (an exemption from income tax on 30% of salary in excess of €75,000) and that discussions continue with Revenue with a view to introducing a more attractive rate of relief if approval is received from the EU Commission for the job creation requirement.

29. During the review of SARP this year, it was evident that there is a gap in the information available in relation to SARP, particularly as it relates to the quality of the jobs created. It is therefore critical that any new scheme or amendments to the existing scheme will need to include the requirement to collect more quantitative data and statistics in order to allow for a more thorough review of the scheme in the future. Officials will work with Revenue over the coming year to clarify the data that will be gathered.

Cost

30. When introduced in 2012, it was estimated that for every 100 individuals on a salary of €500,000 that availed of the scheme the cost to the Exchequer would be €5 million per annum in terms of tax foregone. This equates to a maximum tax exemption per individual of €52,275 (€500,000 - €75,000 = €425,000 x 30% = €127,500 x 41%). Employer returns for 2012 indicated that 12 assignees availed of the scheme and the amount of income in respect of which tax was not deducted was €272,491. This implies that the cost of the scheme in 2012 was approximately €0.1 million, far below the original estimated cost.

31. It could therefore be reasonable to assume that the original estimated cost is still valid. For the purposes of comparison, for every 10 individuals on a salary of €1 million that avail of the scheme the cost to the Exchequer would be €1.1 million per annum in terms of tax foregone. This equates to a maximum tax exemption per individual of €113,775 (€1 million - €75,000 = €925,000 x 30% = €277,500 x 41%). It is anticipated that the actual cost of the scheme will be far below this level as very few (if any) individuals will be in receipt of a salary of €1 million per annum.

32. Officials are available to discuss.

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September 2014

Related Submissions

There are no related Submissions.

User Details

Users with access to Submission

Sinéad Reynolds
Marianne Nolan
Seamus Milne
Sub_FIN Sec Gens Office

Read receipt list

Sinéad Reynolds
SP-ContentAccess
Marianne Nolan

Action Logs

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